

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

CONTEMPT PETITION NO. 268 OF 2015

Avinash Sitaram Karkhanis	... Petitioner
V/s.	
Senior Police Inspector & Ors.	.. Respondents

Mr. H. E. Palve for the petitioner.
Mr. A.R. Patil, AGP for the respondent Nos. 1 & 2.

**CORAM : K. K. TATED, J.
DATED : 13/01/2016**

P.C.:

. Heard learned Counsel for the parties.

2 By this Contempt Petition, the petitioner alleged that the respondents violated the orders dated 27.01.2014, 19.03.2014, 17.04.2014 and 11.06.2014 passed by the learned J.M.F.C. Sudhagadh-Pali, Raigad by not completing the investigation under Section 156(3) of Cr. P.C. and not filing the report.

3 The learned Counsel for the petitioner submits that the petitioner filed application under Section 156(3) of Cr. P.C. on 27.01.2014 in the Court of J.M.F.C., Sudhagadh-Pali. On that application, the learned Magistrate passed order on 27.01.2014 directing the Respondents to carry out the investigation under Section 156(3) and file the report. He submits that as the Respondents failed to comply the said order immediately, he filed another application dated 19.03.2014. On that application, the learned Magistrate passed order on 19.03.2014 that

why show cause notice should not be issued against Pali Police Station for non compliance of earlier order dated 27.01.2014. He further submits that thereafter, the concerned Police Officer of the Respondents filed application dated 16.04.2014 before the learned Magistrate for extension of one month time to complete the investigation. That was granted by the learned Magistrate by order dated 17.04.2014. He submits that inspite of extension of time, the respondent failed to complete the investigation and file the report. Hence, petitioner preferred application dated 11.06.2014 before the learned Magistrate. On the same day, the respondent filed their application/letter dated 11.06.2014 for extension of time to complete the investigation and file report. The same was allowed by the learned Magistrate by order dated 11.06.2014.

4 The learned Counsel for the petitioner submits that as the Respondents failed and neglected to complete the investigation under Section 156(3) of the Cr.P.C. within stipulated time as per Order dated 27.01.2014 passed by the learned Magistrate, they filed the present Petition for taking action against them under the Contempt of Court Act. He submits that during the pendency of the present petition, the respondents filed report before the J.M.F.C. on 28.08.2015.

5 The learned Counsel for the petitioner submits that though the respondents filed their affidavit-in-reply dated 31.08.2015, they failed and neglected to disclose why they took 1 & ½ years to complete the investigation. He submits that as respondents failed to comply the order dated 27.01.2014 passed by the learned Magistrate, this Hon'ble

Court be pleased to take action against them as per the provisions of Contempt of Court Act.

6 In support of these contentions, the learned Counsel for the petitioner relies on the judgment of this Court in the matter of *Vijay Asharam Rathi V/s. M.S. Rao & Ors., reported in 2003(4) Bom. C.R. 402.*

7 On the other hand, the learned AGP for the Respondents vehemently opposed the present Contempt Petition. He submits that during the pendency of the present Contempt Petition, the Respondents completed the investigation and filed their report dated 28.08.2015 before the learned Magistrate stating that the complaint filed by the Petitioner is false and therefore, they filed “B” summary report. He further submits that the concerned police officer took some time to complete the investigation because the complaint was filed against more than 13 persons. He submits that considering the affidavit-in-reply filed by the respondents and as they already complied the order dated 27.01.2014, there is no substance in the present Contempt Petition and same to be dismissed with costs.

8 The learned AGP further submits that because of delay in carrying out the investigation, the concerned Officer Mr. Vitthal Pawar, Senior Police Inspector from Pali Police Station tendered his unconditional apology and same to be accepted.

9 I heard both the sides at length. It is to be noted that at the time

of passing the order dated 27.01.2014, the learned Magistrate has not directed the respondent police officer to complete the investigation within stipulated time. It is to be noted that the complaint filed by the petitioner against 13 persons. Definitely, the police authorities also requires some time to investigate. These facts are stated by the respondent in affidavit-in-reply dated 31.08.2015. In any case, the respondent's officer Mr. Ashok Vitthal Pawar, Senior Police Inspector from Pali Police Station tendered his unconditional apology. Not only that the investigation is completed by them and submitted the report on 28.08.2015 in the court of J.M.F.C. Sudhagadh, Pali. The authority cited by the learned Counsel for the petitioner in the matter of Vinay Asharam Rathi (supra) is not applicable in the facts and circumstances of the present case. In that authority, there was delay of more than five years.

10 Considering the above mentioned facts and circumstances of the present case, I do not find any substance in the Contempt Petition.

11 Hence, Contempt Petition stands rejected.

(K.K.TATED, J.)